II. REMARKS

A. Status of the Claims

Claims 106-121 and 150-187 were pending at the time of the Action. The Action acknowledges entry of the Amendment filed June 24, 2004, wherein claims 76-105, 122-149, 188, and 189 were withdrawn from consideration. No new claims have been added. Claims 173 and 184 have been canceled without prejudice or disclaimer in the Amendment set forth herein. Therefore, claims 106-121, 150-172, 174-183, and 185-187 are currently pending. The pending claims are set forth in the attached Listing of Claims.

B. The Statutory Double Patenting Rejection has been Overcome

Claims 173 and 184 have been rejected under 35 U.S.C. §103 as claiming the same invention as that of claims 35-38 of prior U.S. Patent 6,395,712 as a double patenting rejection. Without conceding that claims 173 and 184 are the same invention as claims 35-38 of U.S. Patent 6,395,712, Applicants will remove the issue by canceling claims 173 and 184 in the Amendment set forth herein. These claims are canceled without prejudice or disclaimer. Therefore, it is submitted that the double patenting rejection of claims 173 and 184 based on U.S. Patent 6,395,712 should be withdrawn.

C. The Rejections Based on the Judicially Created Doctrine of Obviousness-Type Double Patenting has been Overcome

1. Rejection of Claims 76, 106-121 and 150-187 Based on U.S. Patent 5,641,484 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 76, 106-121, and 150-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18-33 and 37-43 of U.S. Patent 5,641,484 ('484) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* According to the Action, although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims are obvious over claims 18-33 and 37-43 of '484 in view of chemotherapeutic agents known in the art at the time of filing. Without conceding that the claims at issue are not patentably distinct from claims 18-33 and 37-43 of the '484 patent, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

2. Rejection of Claims 76, 106-121 and 150-187 Based on U.S. Patent 5,643,567 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 76, 106-121, and 150-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10, 21 and 22 of U.S. patent 5,643,567 ('567) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* Although the conflicting claims are not identical, they are not said to not be identical from each other because the present claims are said to be obvious over claims 1-10, 21 and 22 of '567 in view of chemotherapeutic agents known in the art at the time of filing. Without conceding that the claims at issue are not patentably distinct from claims

1-10, 21 and 22 of the '567 patent, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

3. Rejection of Claims 76, 106-121 and 150-187 Based on Claims 1-8 of U.S. Patent 5,651,964 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 76, 106-121 and 150-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent 5,651,964 ('964) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* Although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims are said to be obvious over claims 1-8 of '964 in view of chemotherapeutic agents known in the art at the time of filing. Without conceding that the claims at issue are not patentably distinct from claims 1-8 of the '964 patent, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

4. Rejection of Claims 76, 106-121 and 150-187 Based on Claims 1-32 of U.S. Patent 5,814,315 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 76, 106-121 and 150-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent 5,814,315 ('315) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* Although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims are said to be obvious over claims 1-32 of '315 in view of chemotherapeutic agents known in the art at the time of filing. Without conceding that the claims at issue are not patentably distinct from claims 1-21 of

'315, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

5. Rejection of Claims 76, 106-121, and 150-187 Based on Claims 1-24 of U.S. Patent 6,197,754

Claims 76, 106-121, and 150-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent 6,197,754 ('754). Although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims are said to be obvious over claims 1-24 of '754 in view of chemotherapeutic agents known in the art at the time of filing. Without conceding that the claims at issue are not patentably distinct from claims 1-24 of '754, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

6. Rejection of Claims 76, 106-121 and 150-187 Based on Claims 1-28 of U.S. Patent 6,683,059 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 78, 106-121 and 150-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent 6,683,059 ('059) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* Although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims are said to be obvious uses of the products claimed in '059. Without conceding that the claims at issue are not patentably distinct from claims 1-28 of '059, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

7. *Rejection of Claims 76, 106-121, 150-172, 174-183 and 185-187 Based on Claims 1-34 and 42 of U.S. Patent 6,395,712*

Claims 76, 106-121, 150-172, 174-183, and 185-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-34 and 42 of U.S. Patent 6,395,712 ('712). Although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims are species to the genus claims in '712. Without conceding that the claims at issue are not patentably distinct from claims 1-34 and 42 of U.S. Patent 6,395,712, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

8. *Rejection of Claims 76, 106-121, 150-172, 174-183, and 185-187 Based on Claims 1-54 of U.S. Patent 6,326,356*

Claims 76, 106-121, 150-172, 174-183, and 185-187 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-54 of U.S. Patent 6,326,356 ('356). Although the conflicting claims are not identical, they are said to not be patentably distinct from each other because the present claims encompass the nucleic acid as encoding a mini-E1A gene as claimed in '356. Without conceding that the claims at issue are not patentably distinct from claims 1-54 of '356, Applicants have removed the issue of obviousness-type double patenting by filing a terminal disclaimer concurrently with this response.

9. *Conclusion*

In view of the above, Applicants request that each of the rejections set forth above based on the judicially created doctrine of obviousness-type double patenting should be withdrawn.

D. The Obviousness Rejections Under 35 U.S.C. §103(a) Have Been Overcome

1. Rejection of Claims 76, 106-121 and 150-187 Based on U.S. Patent 5,641,484 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 76, 106-121 and 150-187 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent 5,641,484 ('484) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* Applicants traverse.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) the prior art reference (or references when combined) must teach or suggest all the claim limitations; (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (3) there must be a reasonable expectation of success. *Manual of Patent Examining Procedure* § 2142. See also *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed Cir. 1991).

No *prima facie* case of obviousness has been established because the Action fails to set forth any suggestion or motivation to modify the references or combine reference teachings to lead to use of the combination of an E1A gene product (or a nucleic acid encoding an E1A gene product) and a chemotherapeutic drug for suppressing growth of a tumor. '484 provides no teaching or suggestion for combining an E1A gene product (or nucleic acid encoding an E1A gene product) with a chemotherapeutic agent for suppressing growth of a tumor. Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton *et al.*, and Valenti *et al.* pertain to specific chemotherapeutic agents or classes of chemotherapeutic agents, none of which provide any suggestion or guidance as to combining any of the disclosed agents with an E1A gene product. Nor does the broad nonspecific language cited in Chevalier provide any suggestion or motivation

to provide for the combination of an E1A gene product and a chemotherapeutic agent for use in tumor suppression. At most, the Action appears to argue that the invention is obvious to try, which is insufficient to meet the requirements for a *prima facie* case of obviousness. Further, none of the cited references provide for any reasonable basis of success for tumor suppression using the combination of an E1A gene product (or nucleic acid encoding an E1A gene product) and a chemotherapeutic agent.

Nevertheless, there is no *prima facie* case of obviousness because '484 is not properly combinable with any of the other cited references. As noted in the Action, the instant rejection can be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, and the present application was filed on or after November 29, 1999. *MPEP* §706.02(l) and §706.02(l)(2). The filing date of the present application was August 31, 2001. Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3, Exhibit 1. Further, '484 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4, Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '484 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). As a result, there can be no *prima facie* case of obviousness because none of the remaining cited references teach or suggest any information pertaining to E1A, or the combination of E1A with a chemotherapeutic drug.

For each of the reasons set forth above, this rejection under 35 U.S.C. §103(a) should be withdrawn.

2. *Rejection of Claims 76, 106-121 and 150-187 Based on U.S. Patent 5,643,567 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.*

Claims 76, 106-121 and 150-187 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent 5,643,567 ('567) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.* Applicants traverse.

The requirements for a *prima facie* case of obviousness, set forth above, have not been met. As with the previous rejection, '567 provides no teaching or suggestion for combining an E1A gene product (or a nucleic acid encoding an E1A gene product) with a chemotherapeutic agent. Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton *et al.*, and Valenti *et al.* pertain to specific chemotherapeutic agents or classes of chemotherapeutic agents, none of which provide any suggestion or guidance as to combining any of the disclosed agents with an E1A gene product (or nucleic acid encoding an E1A gene product). Nor does the broad nonspecific language cited in Chevalier provide any suggestion or motivation to provide for the combination of an E1A gene product and a chemotherapeutic agent for use in tumor suppression. As with the previous rejection, the Action at most appears to argue that the invention is obvious to try, which is insufficient to meet the requirements for a *prima facie* case of obviousness. Further, none of the cited references provide for any reasonable basis of success for tumor suppression using the combination of an E1A gene product (or nucleic acid encoding an E1A gene product) and a chemotherapeutic agent.

Nevertheless, there is no *prima facie* case of obviousness because '567 is not properly combinable with the other cited references. As noted in the Action, the instant rejection can be

overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, and the present application was filed on or after November 29, 1999. MPEP §706.02(l) and §706.02(l)(2). Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3, Exhibit 1. Further, '567 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4, Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '567 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). As a result, there can be no *prima facie* case of obviousness because none of the remaining cited references teach or suggest any information pertaining to E1A, or the combination of E1A with a chemotherapeutic drug.

For each of the reasons set forth above, this rejection under 35 U.S.C. §103(a) should be withdrawn.

3. Rejection of Claims 76, 106-121 and 150-187 Based on U.S. Patent 5,651,964 in View of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.

Claims 76, 106-121 and 150-187 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent 5,651,964 ('964) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton Valenti *et al.*, and Chevalier *et al.* Applicants traverse.

The requirements for a *prima facie* case of obviousness, set forth above, have not been met. As with the above, '964 provides no teaching or suggestion for combining an E1A gene

product (or a nucleic acid encoding an E1A gene product) with a chemotherapeutic agent. Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton *et al.*, and Valenti *et al.* pertain to specific chemotherapeutic agents or classes of chemotherapeutic agents, none of which provide any suggestion or guidance as to combining any of the disclosed agents with an E1A gene product (or nucleic acid encoding an E1A gene product). Nor does the broad nonspecific language cited in Chevalier provide any suggestion or motivation to provide for the combination of an E1A gene product and a chemotherapeutic agent for use in tumor suppression. As with the previous rejection, the Action at most appears to argue that the invention is obvious to try, which is insufficient to meet the requirements for a *prima facie* case of obviousness. Further, none of the cited references provide for any reasonable basis of success for tumor suppression using the combination of an E1A gene product (or nucleic acid encoding an E1A gene product) and a chemotherapeutic agent.

Furthermore, as with the previous rejections, there is no *prima facie* case of obviousness because '964 is not properly combinable with the other cited references. Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3 of Exhibit 1. Further, '964 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4 of Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '964 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). As a result, there can be no *prima*

facie case of obviousness because none of the remaining cited references teach or suggest any information pertaining to E1A, or the combination of E1A with a chemotherapeutic drug.

4. *Rejection of Claims 76, 106-121 and 150-187 Based on U.S. Patent 5,814,315 in view of Thatcher et al., Powles et al., Larsson et al., Culine et al., Norton, Valenti et al., and Chevalier et al.*

Claims 76, 106-121 and 150-187 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent 5,814,315 ('315) in view of Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton, Valenti *et al.*, and Chevalier *et al.*

The requirements for a *prima facie* case of obviousness, set forth above, have not been met. As discussed above, '315 provides no teaching or suggestion for combining an E1A gene product (or nucleic acid encoding an E1A gene product) with a chemotherapeutic agent. Thatcher *et al.*, Powles *et al.*, Larsson *et al.*, Culine *et al.*, Norton *et al.*, and Valenti *et al.* pertain to specific chemotherapeutic agents or classes of chemotherapeutic agents, none of which provide any suggestion or guidance as to combining any of the disclosed agents with an E1A gene product (or nucleic acid encoding an E1A gene product). Nor does the broad nonspecific language cited in Chevalier provide any suggestion or motivation to provide for the combination of an E1A gene product and a chemotherapeutic agent for use in tumor suppression. As with the previous rejection, the Action at most appears to argue that the invention is obvious to try, which is insufficient to meet the requirements for a *prima facie* case of obviousness. Further, none of the cited references provide for any reasonable basis of success for tumor suppression using the combination of an E1A gene product (or nucleic acid encoding an E1A gene product) and a chemotherapeutic agent.

Furthermore, as with the previous rejections, there is no *prima facie* case of obviousness because '315 is not properly combinable with the other cited references. Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3 of Exhibit 1. Further, '315 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4 of Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '315 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). As a result, there can be no *prima facie* case of obviousness because none of the remaining cited references teach or suggest any information pertaining to E1A, or the combination of E1A with a chemotherapeutic drug.

5. Rejection of Claims 76, 106-121, and 150-187 Based on U.S. Patent 6,197,754

Claims 76, 106-121 and 150-187 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent 6,197,754 ('754). According to the Action, '754 is said to teach methods of suppressing growth of a tumor comprising introducing a mini-E1A gene product to a tumor and where the method further comprises introducing a chemotherapeutic agent such as those specifically claimed in the present claims. As a result, the Action alleges that it would have been obvious to the ordinary artisan at the time of filing to suppress the growth of a tumor comprising a *neu* oncogene cell by contacting the cell in the tumor with a nucleic acid encoding an E1A gene product and a chemotherapeutic drug in amounts effective to suppress tumor growth. Applicants traverse.

As noted in the Action, the instant rejection can be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, and the present application was filed on or after November 29, 1999. *MPEP* §706.02(l) and §706.02(l)(2). The filing date of the present application was August 31, 2001. Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3 of Exhibit 1. Further, '754 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4 of Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '754 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). Therefore, in view of this declaration, there can be no *prima facie* case of obviousness.

Thus, the rejection of claims 76, 106-121 and 150-187 as being obvious over U.S. Patent 6,197,754 ('754) should be withdrawn.

6. Rejection of Claims 76, 106-121, and 150-187 Based on U.S. Patent 6,683,059

Claims 76, 106-121 and 150-187 have been rejected based on 35 U.S.C. §103(a) as being obvious over U.S. Patent 6,683,059 ('059). According to the Action, the claimed invention would have been obvious because '059 is said to teach methods of suppressing tumor growth by administering a nucleic acid encoding a mini-E1A gene product, and administration of chemotherapeutic agents in conjunction with the mini-E1A genes. Applicants traverse.

As noted in the Action, the instant rejection can be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, and the present application was filed on or after November 29, 1999. *MPEP* §706.02(l) and §706.02(l)(2). The filing date of the present application was August 31, 2001. Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3 of Exhibit 1. Further, '059 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4 of Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '059 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). Thus, this rejection under 35 U.S.C. §103(a) should be withdrawn.

7. Rejection of Claims 76, 106-121, and 150-187 Based on U.S. Patent 6,326,356

Claims 76, 106-121, and 150-187 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent 6,326,356 ('356). '356 is said to teach methods of suppressing tumor growth by administering a nucleic acid encoding a mini-E1A gene product, and the administration of chemotherapeutic agents in conjunction with the mini-E1A genes. Applicants traverse.

As noted in the Action, the instant rejection can be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, and the

present application was filed on or after November 29, 1999. *MPEP* §706.02(l) and §706.02(l)(2). The filing date of the present application was August 31, 2001. Applicants herein submit the declaration of Kevin Casement, Director of Technology Assessment and Licensing of MD Anderson Cancer Center (Exhibit 1), which establishes that each of the inventors of the present application was subject to an obligation of assignment to the Board of Regents, The University of Texas System, at the time the invention was made. See paragraph 3 of Exhibit 1. Further, '356 was assigned to the Board of Regents, The University of Texas System, at the time the invention claimed in the present application was made. See paragraph 4 of Exhibit 1. Therefore, pursuant to 35 U.S.C. §103(c), '356 is not prior art as to the presently claimed invention for purposes of a rejection under 35 U.S.C. §103(a). Thus, this rejection under 35 U.S.C. §103(a) should be withdrawn.

II. REQUEST FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions for an extension of time of three months to and including May 29, 2005, in which to respond to the Office Action dated November 25, 2004. Since May 29, 2005, falls on a Saturday, and since May 30, 2005 is Memorial Day, a federal holiday, the actual due date for the response with a three-month extension of time is May 31, 2005, pursuant to the Saturday, Sunday, holiday rule.

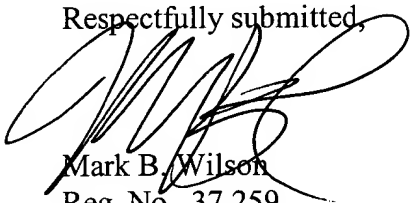
Pursuant to 37 C.F.R. § 1.17, a check in the amount for a three-month extension of time is included herein.

If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/10105728/MBW.

C. Conclusion

Applicants believe this to be a full and complete response to the Action dated November 29, 2004. Applicants respectfully request favorable consideration of this case in view of the above comments and amendments. Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3035.

Respectfully submitted,



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